

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jerald Boitnott,

Plaintiff,

vs.

Taco Bell of America, LLC d/b/a
Taco Bell and Gregg Nelson Trustee and
Barbara Nelson Trustee,

Defendants.

**NOTICE OF REMOVAL TO
FEDERAL COURT**

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA; AND PLAINTIFF ABOVE-NAMED.

Defendants Gregg Nelson Trustee and Barbara Nelson Trustee (collectively, “Trustee Defendants”) by and through their attorneys, Winthrop & Weinstine, P.A., remove this action from the Minnesota District Court, Second Judicial District, Ramsey County, to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. § 1331.

In support of their Notice for Removal, Trustee Defendants state as follows:

Removal Procedure

1. Plaintiff Jerald Boitnott (“Plaintiff”) personally served a Summons and Complaint captioned *Jerald Boitnott vs. Taco Bell of America, LLC d/b/a Taco Bell and Gregg Nelson Trustee and Barbara Nelson Trustee*, State of Minnesota, Second Judicial District, County of Ramsey (the “Complaint”) upon Trustee Defendants Gregg Nelson

Trustee and Barbara Nelson Trustee on May 22, 2018. A true and correct copy of the Summons and Complaint is attached hereto as **Exhibit A** as required by 28 U.S.C. § 1446(a). As of the date of this filing, the Complaint has not been filed with the Ramsey County District Court.

2. On June 11, 2018, Plaintiff agreed to extend the deadline for Defendants Taco Bell of America, LLC d/b/a Taco Bell, Gregg Nelson Trustee, and Barbara Nelson Trustee's (collectively, "Defendants") to answer the Complaint to June 25, 2018. As such, Defendants have not answered the Complaint, and no further proceedings have taken place in the State Court Action.

3. The Complaint seeks declaratory judgment, injunctive relief, and certain nominal monetary damages and attorneys' fees arising from Defendants' alleged violation of the Americans with Disabilities Act ("ADA").

4. 28 U.S.C. § 1331 states in relevant part:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

5. The Complaint alleges violations of the ADA, which is a law of the United States. This Court therefore has Federal Question Jurisdiction over this matter.

6. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it was filed within thirty days after the Trustee Defendants received service of Plaintiff's Summons and Complaint.

7. Venue is proper in this Court for removal purposes under 28 U.S.C. §1446(a), as this Court is “the district court of the United States for the district and division” where the State Court Action is pending.

8. Concurrent with the filing of this Notice of Removal, written Notice of Removal is being given to Plaintiff and a copy of a Notice of Filing Notice of Removal is being filed with the Minnesota District Court, Second Judicial District, Ramsey County as required by 28 U.S.C. §1446(d). A true and correct copy of the Notice of Filing Notice of Removal is attached hereto as **Exhibit B**.

9. Pursuant to 28 U.S.C. §1446(b)(2), Trustee Defendants have conferred with Defendant Taco Bell of America, LLC d/b/a Taco Bell, and Defendant Taco Bell of America, LLC d/b/a Taco Bell consents to this removal.

10. By this Notice of Removal, Defendants do not waive any objections they may have to this action. Defendants intend no admissions of fact, law or liability as to Plaintiff’s allegations, whether set forth in the Complaint or otherwise, and expressly reserve all defenses, motions, and pleas.

11. WHEREFORE, Trustee Defendants hereby give notice that the case *Jerald Boitnott v. Taco Bell of America, LLC d/b/a Taco Bell and Gregg Nelson Trustee and Barbara Nelson Trustee*, is removed from the Second Judicial District, Ramsey County, Minnesota to the United States District Court for the District of Minnesota, pursuant to 28 U.S.C. §§1331, 1441, and 1446, and that all further proceedings shall be held before this Court.

Dated: June 20, 2018

WINTHROP & WEINSTINE, P.A.

By: s/ Joseph M. Windler
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